1949. **File No.** Cr. P.C. II/49(N)

Legal Deptt

B BRANCH

Subject:— Notifications under the Code of Criminal Procedure 1898.

P-49

File No. Cr. P.C. II/49(N)

143-B

Legal Department.

The draft notification at pp. 45-73 ante, as amended, is in order.

G.N., J.D. No. 65 dated the 5th January 1912, referred to in the margin has been entirely superseded by G.N., J.D. No. 1333, dated the 10th February 1920, (slip 0). The reference to the former notification has therefore been deleted and in its place the latter has been substituted.

G.N., J.D. No. 66, dated the 5th January 1912, which relates to the Patan and Malhar Peth Police Stations has been superseded by the G.N., H.D. No. 2756A, dated the 5th December 1922 (slip G). The reference to the former notification has therefore been deleted from the margin.

The Islampur Police Station has been shown to have been created in the Salta Taluka. There is no such taluka in the Satara District. H.D. should insert the correct name after verifying it. It is probably Walva Taluka.

Sd: J.R. Dhurandhar.

3/1.

Additional Secretary to Government.

U.R. to H.D., No. 55, dated the 4th January 1923.

GJT. 25.6. 4 d.

L.D. 2445 dt. 17. 2.

The proposal is to issue a notification under section 12 of the Code of Criminal Procedure 1898, investing all Treasury and Extra Aval Karkuns in the States integrated with the Province with powers of IIIrd Class Magistrate, on the lines of G.N. No. III M.E.G.R. No. 2033 dated 20th April, 1899.

Sd/- [illegible]
21/12.

Sd; J.R. Dhurandhar.
21/2.
Additional Secretary to Government.

GJT. 25.6. 4 c.

Legal Department.

There is no objection to the issue of such a notification under section 12 of the Code of Criminal Procedure read with para. 3 of the Indian States (Application of Laws) Order, 1948.

Sd: J.R. Dhurandhar.

23/2.

Additional Secretary to Government.

U.R. to H.D. No. 2226, dated the 24th February '49.

GJT. 25.6.: 4 c.

Legal Department

It does not appear that the Code of Criminal Procedure, 1898, has been amended by the Central Legislature by the insertion of new section 123A. The Code has been presumably amended by the Government of United Provinces in its application to United Provinces by the insertion of the said section 123A and if so it would be necessary to see the relevant Provincial Act by which the amendment was made in the Code. The Home Department is therefore requested to verify and obtain a copy of the United Provinces Act by which section 123-A was inserted in the Criminal Procedure Code.

Sd/- .....

22/4.

For Additional Secretary to Government.

U.R. to H.D. No. 4490, dated the 26th April 1949.

GJT. 25.6. 4 c.

Legal Department.
3069 dt. 2.3.49.

2. The proposal in these papers is to notify the appointments of three First class Magistrates who worked as Special Magistrates under Section 14 of Code of Criminal Procedure, 1898 (V of 1898). A draft notification (at p. 21 ante) for the purpose is sent to L.D. for scruting.

Sd/- ....
26/4.

Addl. Secy.

GJT. 25.6. 4 c.

Legal Department.

The doubt raised by Secretary Home Department is correct. Under section 14 powers cannot be conferred with retrospective effect. In this case the secret circular required the three special Magistrates to be attached to the Military. In accordance with the orders three persons were deputed for the purpose. This deputation was approved by Government. The period of deputation has expired. No further orders are now necessary. In any case no orders can be issued with retrospective effect.

Sd: J.R. Dhurandhar.

27/4.

Additional Secretary to Government.

U.R. to H.D. No. 4555, dated the 27th April 1949.

GJT. 25.6. 4 c.

Legal Department.

A revised draft notification is sent herewith.

Sd: J.R. Dhurandhar.

2/5.

Additional Secretary to Government.

U.R. to H.D., No. 4824, dated the 3rd May 1949.

GJT. 25.6. 4 [illegible]

NOTIFICATION.

Home Department,

Bombay Castle, May 1949.

Code of Criminal Procedure, 1898.

No. G.- In exercise of the powers conferred by sub-sections (1) and (2) of section 269 and sub-section (2) of section 274 of the Code of Criminal Procedure, 1898 (V of 1898), the Government Notifies of Bombay is pleased to amend the Government Notification in the Home Department, No. 7630/4, dated the 22nd October 1945, as follows, namely :-

In the Schedule to the said notification, for the entry in column 2 against the Court of Sessions of Ahmedabad District the following entry shall be substituted, namely :-

"Offences punishable with death, transportation for life, or imprisonment for ten years and offences in respect of which the offender is liable to enhanced punishment under section 75 of the Indian Penal Code."

By order of the Governor of Bombay,

Secretary to Government.

GJT: 25.6.1 4 c.

Legal Department.

A revised draft notification is sent herewith.

The names of the Indian States should be specified in the Schedule.

Sd: J.R. Thurandhar.

30/4.

Additional Secretary to Government.

U.R. to R.D. No. 4788, dated the 2nd May 1949.

GJT. 25.6. 4 o.

NOTIFICATION.

Home Department,

Bombay Castle, 1949.

Code of Criminal Procedure, 1898.

No. :- In exercise of the power conferred by section 12 of the Code of Criminal Procedure, 1898, (V of 1898), read with paragraph 3 of the Indian States (Application of Laws) Order, 1948, the Government of Bombay is pleased to direct that all persons holding the office of the Treasury Karkuns and Extra Aval Karkuns, whether permanently or temporarily, in the States specified in the Schedule appended hereto, to be Magistrates of the Third Class for the areas for which they are appointed as Treasury Karkuns or Extra Aval Karkuns.

Schedule.

(here insert States)

By order of the Governor of Bombay,

Secretary to Government.

GJT. 25.6. 4 d.

Legal Department.

Two ~~xx~~ revised draft notifications are sent herewith.

Sd: J.R. Dhurandhar.
24/8.

Additional Secretary to Government.

U.R. to H.D., No. 9583, dated the 24th August 1949.

GJT: 25.6.. 4 c.

NOTIFICATION.

Home Department,

Bombay Castle, August 1949.

Code of Civil Procedure, 1908.

No. In exercise of the powers conferred by sub-section (2) of section 137 of the Code of Civil Procedure, 1908 (V of 1908) as applied by the Indian States (Application of Laws) Order, 1948, and in supersession of all previous notifications on the subject, the Government of Bombay is pleased to declare Kannada and Marathi as the languages of the Courts specified in the Schedule appended hereto, and the Kannada and Devnagari scripts as the characters in which applications to and proceedings in the said Courts shall be written.

Schedule.

1. The Court of the Civil Judge (Junior Division), Jath.
2. The Court of the Civil Judge, (Junior Division), Miraj.
3. The Court of the Civil Judge (Junior Division), Akalkot.
4. The Court of the Civil Judge (Junior Division), Shahapur.
5. The Court of the Civil Judge (Junior Division), Ramdurg.
6. The Court of the Civil Judge (Junior Division), Jamkhandi.
7. The Court of the Civil Judge (Junior Division), Laxmeshwar.

By order of the Governor of Bombay,

Secretary to Government.

WP. 25.6. 4 o.

NOTIFICATION.

Home Department,

Bombay Castle, August 1949.

Code of Criminal Procedure, 1898.

No. :- In exercise of the powers conferred by section 558 of the Code of Criminal Procedure, 1898 (Vm of ~~1898~~ 1898), as applied by the Indian States (Application of Laws) Order, 1948, and in supersession of all previous notifications on the subject, the Government of Bombay is pleased to determine that, for the purposes of the said Code, Kannada and Marathi shall be deemed to be the languages of the Criminal Courts at places specified in column 1 of the Schedule appended hereto in the sessions divisions specified in column 2 of the said Schedule.

SCHEDULE.

Place 1	Sessions Division 2
1. Jath	1. South Satara
2. Miraj	2. South Satara
3. Akalkot	3. Sholapur
4. Shahapur	4. Belgaum
5. Ramdurg	5. Bijapur
6. Jamkhandi	6. Bijapur
7. Laxmeshwar	7. Dharwar.

By order of the Governor of Bombay,

GJT. 25.6. 4

Secretary to Government.

Legal Department.

There is no legal objection to appointing Treasury Karkuns and Extra Aval Karkuns in the Baroda State as the Magistrates of the Third Class for the areas for which they are appointed as Treasury Karkuns or Extra Aval Karkuns. It is, however, suggested that these Treasury Karkuns and Aval Karkuns should not be invested with the powers specified in Schedule IV to the Code of Criminal Procedure.

Sd: J.K. Dhurandhar.
12/10.

Additional Secretary to Government.

U.R. to H.D., No. 11425, dated the 13th October 1949.

GJT. 25.6. 4 c.

Legal Department.

The Secretary to the Regional Commissioner, Western India and Gujarat States Regions, now states that the officers and Courts of the Assistant Regional Commissioner, Eastern Kathiawar Region, and Thanedars, Songadh and Vadhwan have been abolished and that the question therefore of investing those officers with magisterial powers does not now arise. In view of these facts it follows that the Home Department Notification No. 7464/2, dated the 25th October 1932, appointing the aforesaid officers as the 1st and 2nd Class Magistrates has automatically lapsed. It is not therefore necessary to supersede it specifically. It is sufficient if the Resident Magistrate, Bhavnagar, is appointed a First Class Magistrate for the areas included in the Bhavnagar State Railway passing through the Ahmedabad District.

A revised draft notification is sent herewith.

Sd/ J.R. Dhurandhar.
10/11.

Additional Secretary to Government.

U.R. to H.D., No. 12720, dated the 11th November 1948.

GJT. 25.6. 4 c.

NOTIFICATION.

Home Department,

Bombay Castle, 1949.

Code of Criminal Procedure, 1898.

No. 4404/5.- In exercise of the powers conferred by sections 12 and 39 of the Code of Criminal Procedure, 1898 (V of 1898), the Government of Bombay is pleased

(a) to appoint the Resident First Class Magistrate, Kholka Dhandhuka to be a Magistrate of the First Class in the District of Ahmedabad;

(b) to define the areas, being areas occupied by those portions of the Bhavnagar State Railway and the premises thereof, within which the said officer may exercise the powers with which he is invested under clause (a) as shown in the sub-joined schedule.

* To be checked by H.D.

* SCHEDULE.

Section of the Bhavnagar State Railway.	Area occupied by the railway in the Ahmedabad District.

By order of the Governor of Bombay,

Secretary to Government.

GJT. 25.6. 4 c.

Home Department,

Bombay Castle, 1949.

No. :- In exercise of the powers conferred by sub-sections (1) and (2) of section 269 and sub-section (2) of section 274 of the Code of Criminal Procedure, 1898 (V of 1898), the Government of Bombay is pleased to direct that :—

(1) the trial of offences punishable with imprisonment for less than ten years and of attempts to commit, or of abetment of, any of the said offences, before the Court of Sessions of Baroda District shall be by jury; and

(2) in a trial by jury before the said Court of Sessions, the jury shall consist of five persons.

By order of the Governor of Bombay,

Secretary to Government.

GJT. 25.6.: 4 c.

Legal Department.

The Judicial district of Kolaba was separated from the judicial district of Thana somewhere in the month of July of this year. The High Court therefore recommended to Government that the offences which were triable by jury in the Court of Sessions, Thana, should also be continued to be tried by jury before the Court of Sessions in the Kolaba District. The High Court also recommended that fresh notifications with regard to all the judicial districts newly constituted should issued with regard to the system of trial by jury. The Home Department, however, thought it expedient to introduce the jury system in the judicial district of Baroda. The necessary orders were therefore drafted by the Legal Department at p. 7 of the correspondents section whereby the two new judicial districts of Kolaba and Baroda were added to G.N. H.D. No. 7630/4, dated the 22nd October 1945 where under the jury system has been prescribed for certain offences. The said orders were not however issued. In the meantime the Special Judicial Officer, Baroda, pointed out to Government that in Baroda, offences punishable with death, transportation for life or imprisonment for more than 10 years are triable with the aid of assessors and that the offences which are punishab-

le with sentence of imprisonment for less than 10 years are triable by jury. The High Court was consulted by the Home Department in the matter and the High Court have recommended merely the continuance of the existing system in Baroda. The papers are now referred to the R.L.W. to furnish a revised draft notification in view of the new proposal.

2. It may be observed that in Baroda, offences of serious nature that is those punishable with death transportation for life or imprisonment for more than 10 years are not triable by jury as in the Bombay Province but by assessors; and that offences of less serious nature that is those which are punishable with the sentence of imprisonment for less than 10 years are triable by jury and not by assessors as in the Bombay Province. The proposal now is to continue the existing system in Baroda. Whereas under the first proposal (which is now replaced by the new proposal) the jury system for serious offences was to be introduced in the district of Baroda only, it is not made clear in the new proposal whether the system, as obtaining in Baroda State, should continue only in the judicial district of Baroda or in the other judicial district in the former Baroda State that is Amreli and Mehsana. The Home Department should therefore make this point clear and forward the letter of the High Court, which recommends the continuance of the existing

GJT. 25.6.4 4

system is to continue in the whole of Baroda State, the Home Department also should state the names of other judicial districts for which a Session Court is established so that the necessary draft notification can be prepared.

Sd: J.R. Dhurandhar
9/11.

Additional Secretary to Government.

U.R. to Home Department, No. 12625, dated the 9th November 1949.

GJT. 25.6. 4 c.